

Heating oil that is not delivered directly into the fuel supply tanks of motor vehicles does not qualify for the reduced rate of sales tax on motor fuel. See 86 Ill. Adm. Code 130.101. (This is a GIL).

October 19, 2000

Dear Mr. Xxxxx:

This letter is in response to your letter dated September 6, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I would like to make inquiry for a legal opinion as to whether heating oil sales are covered under the temporary sales tax rate reduction law. I am told by the q & a unit that they are not, but I have reason to believe that their answer is in error.

Referring to Dept. of Revenue informational bulletin FY2000-25, there is no direct reference to heating oil. It does say that the law applies to Motor Fuel as defined in Section 1.1 of the Motor Fuel Tax Law, and that 'Motor Fuel' includes 'Special Fuel'. 'Special Fuel' means all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine.

According to my understanding, heating oil has always been included in the meaning of 'Special Fuel' because it is the same exact product as off-road diesel, which does qualify and it is capable of being used as diesel fuel. As a distributor, my understanding is that heating oil is considered to be included in our inventory of the term 'Special Fuel' because it is then subject to the motor fuel tax if we cannot properly qualify and account for the non-taxable gallonage. If this is correct by the law, it is my opinion that heating oil would be included in the temporary sales tax rate reduction as a 'Special Fuel'.

I ask that you please consider this inquiry with the utmost urgency. Almost all of our heating oil customers are of very low income status. The cost of heating oil is as high as it's been for a decade and projected to go higher. If we are collecting an extra 5% which we really shouldn't be by the letter of the law, it will be of definite economic harm to these people.

Thank you for your consideration of my inquiry.

For your information, I have enclosed a copy of 86 Ill. Adm. Code 130.101 which is the Department's emergency regulation regarding the reduced rate of sales tax on sales of motor fuel. As you can see in subsection (b) of Section 130.101, heating oil (e.g., kerosene and fuel oil) is not considered motor fuel unless delivered directly into the fuel supply tanks of motor vehicles, in which case it is considered diesel fuel. Therefore, heating oil that is not delivered directly into the fuel supply tanks of motor vehicles does not qualify for the reduced rate of sales tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk
Enc.